

FILED

AUG 19 2008

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND/ODESSA DIVISION

UNITED STATES OF AMERICA )

v. )

MICHAEL ZACHARIAH GOMEZ )

MO-08-CR-049(2)

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY 8/19  
DEPUTY CLERK

**FINDINGS OF FACT AND RECOMMENDATION ON FELONY GUILTY  
PLEA BEFORE THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28 United States Code, Section 636(b) this matter has been referred by the District Court for administration of guilty plea and allocution under Rule 11 of the Federal Rules of Criminal Procedure.

On the 18<sup>th</sup> day of August, 2008, this cause came before the undersigned U.S. Magistrate Judge for Guilty Plea and Allocution of the Defendant, **MICHAEL ZACHARIAH GOMEZ**, on Count **ONE subpart (A)** of the **INDICTMENT** filed herein charging him with a violation of Title 21 U.S.C. § 846.<sup>1</sup> The Defendant signed a written consent to plead before the Magistrate Judge. After conducting said proceeding in the form and manner prescribed by FED.R.CRIM.P. 11 the Court finds:

a) That the Defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea and Allocution in this cause by a U.S. Magistrate Judge subject to final approval and imposition of sentence by the District Court.

c) That the Defendant is fully competent and capable of entering an informed plea, that the Defendant is aware of the nature of the charges and the consequences of the plea,<sup>2</sup> and that the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense.

**IT IS THEREFORE**, the recommendation of the undersigned U.S. Magistrate Judge that the District Court accept the guilty plea of the Defendant, **MICHAEL ZACHARIAH GOMEZ**, and that **MICHAEL ZACHARIAH GOMEZ** be finally adjudged guilty of that offense.

---

<sup>1</sup>Paragraph (A) is one of the objectives of the allegations of conspiracy in Count ONE of the Indictment. It is an alleged violation of Title 21 U.S.C. § 841(a)(1) as the objective. The Defendant pled to paragraph (A). The Defendant did not plead to the paragraph (B) objective and the Government will abandon paragraph (B) as an objective for this Defendant.

<sup>2</sup>The Defendant was admonished as to punishment of a mandatory minimum 10 years up to life imprisonment, a fine not to exceed Four Million Dollars (\$4,000,000.00), a mandatory minimum 5 years supervised release, and a One Hundred Dollar (\$100.00) special assessment.

The United States District Clerk shall serve a copy of this Proposed Findings of Fact and Recommendation on all parties electronically. In the event that a party has not been served by the Clerk with this Report and Recommendation electronically, pursuant to the CM/ECF procedures of this District, the Clerk is ORDERED to mail such party a copy of this Report and Recommendation by certified mail, return receipt requested. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to this report must serve and file written objections within ten (10) days after being served with a copy unless the time period is modified by the District Court. A party filing objections must specifically identify those findings, conclusions or recommendation to which objections are being made; the District Court need not consider frivolous, conclusive or general objections. Such party shall file the objections with the Clerk of the Court and serve the objections on the Magistrate Judge and on all other parties. A party's failure to file such objections to the proposed findings, conclusions and recommendation contained in this report shall bar the party from a de novo determination by the District Court. Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation contained in this report within ten (10) days after being served with a copy shall bar the aggrieved party from appealing the factual findings of the Magistrate Judge that are accepted or adopted by the District Court, except upon grounds of plain error or manifest injustice.

**SIGNED** this 18<sup>th</sup> day of August, 2008.

A handwritten signature in black ink, appearing to read "L. Stuart Platt", is written over a horizontal line.

**L. STUART PLATT**

United States Magistrate Judge